

REMARKS

Claims 1, 3 and 5-42 are pending.

§ 103 Rejections

Claims 1, 3 and 5-42 stands rejected under 35 USC § 103(a) as being unpatentable over Kacher et al. (U.S. Pub. 2003/0049407) in view of Schortmann et al. (U.S. 4,537,819) and Schlegel, Jr. et al. (U.S. 3,638,270).

Applicant again must object to the motivation to combine Schortmann et al. with Kacher et al.

**THERE IS NO TEACHING IN SCHORTMANN ET AL ON HOW TO
HYDROENTANGLE HOOK STRIPS**

Schortmann et al has a **continuous** foam material that is hydroentangled with a nonwoven web. Kacher et al teaches **discrete** discontinuous hook strips adhesively attached to a substrate which is among other things a mitt., note pages 8 and 9.

As previously discussed if one were to try and hydroentangle the discrete hook strips of Kacher et al as per Schortmann et al the result would be chaos. Hydroentangling is a high energy physical redistribution of fibers . The point previously made was that the discrete hook strips of Kacher et al would act like big fibers. The violent chaotic process of hydroentagling would simple move and twist the disconnected discrete hook strips of Kacher et al within the fibers of the hydroentagled fibous web. Kacher in contrast wants to carefully place hook strips in a regular array on a web or mitt or the like so the hook projections face outward. Trying to do this by hydroentangling is like trying to do this by putting the hook strips into a blender with the fibrous web to which it is to be attached, which would destroy the functionality of the Kacher et al product. Why would someone of skill in the art want to do this?

As previous pointed out Applicants avoid this issue by using a dimensionally stable structure of "substantially continuous first and second sets of intersecting strand elements", which structure is not taught in Kacher. Kacher et al has discrete strips, zones or the like of

protrusions with intervening zones free of protrusions (paragraphs 118-125). The lack of this structural feature is not commented on in the outstanding rejection.

It would also appear from the rejection that the examiner suggests taking the Kacher et al products and attaching a nonwoven on top of the Kacher et al protrusions. This again would have the same problems as discussed above using hydrentangling as taught by Schortmann et al or otherwise would have the likely effect of simply masking the projections on the hook strips of Kacher et al if a nonwoven web were adhesively attached as is taught in Kacher et al. It is unclear why this would be done in Kacher in any event. If a nonwoven is used as the backing in Kacher et al, the spacing required between the hook strips would make this nonwoven available for its potential cleaning abilities. There is no such spacing with the continuous foam of Schortmann et al. As such there is simply no reason to try and imbed the hook strips of Kacher et al into a nonwoven as per Schortmann et al as the properties Schortmann et al is looking to obtain are already present in the structures suggested by Kacher et al. Namely when a nonwoven backing is selected in Kacher et al the intervening zones of the nonwoven backing free of protrusions are freely available for trapping dust and the like generated by the protrusions.

Attached is a quote from a recent USPTO Board of Appeals cases Ex parte; Neelakantan Sundaresan (Appeal No. 2006-1342; Application No. 09/488,471).

"To reach a proper conclusion under 35 U.S.C. § 103, the decision maker must step backward in time and into the shoes worn by [a person having ordinary skill in the art] when the invention was unknown and just before it was made. In light of *all* the evidence, the decision maker must then determine whether the claimed invention as a whole would have been obvious at *that* time to *that* person. The answer to that question partakes more of the nature of law than of fact, for it is an ultimate conclusion based on a foundation formed of all the probative facts.

The test for obviousness is based on the claimed invention as a whole and not upon mere combination of prior art references. Creative Pioneer Products Corp. v. K. Mart Corp., 1987 WL 54482 (S.D. Tex), 5 USPQ2d 1841 (DC S.Texas 1987).

The presence or absence of a motivation to combine references in an obviousness determination is a pure question of fact. In re Gartside, 203 FJd 1305, 1316, 53 USPQ2d 1769,

1776 (Fed. Cir. 2000). The question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. In re Beattie, 974 F.2d 1309, 1311-12, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992). Evidence of a suggestion, teaching or motivation to combine may flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved. In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617.”

The Federal Circuit is clear that all changes over the art must be considered no matter if they may seem at their face “minor” or “simple”, it is still required that “the prior art provides (a) teaching or suggestion to one of ordinary skill in the art to make the changes” In re Chu 66 F.3d 292, 298-99 (Fed. Cir. 1995)

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested.

Allowance of claims 1, 3 and 5-42, as amended, at an early date is solicited.

Respectfully submitted,

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